



EX PARTE

October 27, 2004

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, S.W., Room TW-B204
Washington, DC 20554

Re: ***Expedited Petition to Reduce or Adjust the Proposed Fourth Quarter
USF Contribution Factor, CC Docket No. 96-45***

***AT&T Corp. Petition for Declaratory Ruling Regarding Enhanced
Prepaid Card Services, WC Docket No. 03-133***

Dear Ms. Dortch:

WilTel Communications, LLC ("WilTel") submits this letter to correct a number of inaccuracies contained in AT&T's letter, dated October 4, 2004, in connection with matters referenced above.¹ WilTel urges the Commission to act quickly on these proceedings to avoid further market uncertainty and greater retroactive funding adjustments.

In its letter, AT&T continues to obfuscate the real issue in these proceedings by citing irrelevant statistics. For example, AT&T suggests that it is somehow meeting its USF payment obligations because it is the "single largest contributor to the USF" and has paid "more than \$9 billion into the federal USF since 1998." There is no dispute that AT&T has made some USF payments. AT&T is the largest IXC in the country, with well over \$178 billion in total FCC-reported toll revenues between 1998 and 2002 alone. As USF contributions are based on assessable revenues, it is not surprising that the largest IXC would make the largest contribution to the USF. As AT&T well knows, the issue here is not how much AT&T is contributing in the aggregate. Rather, the issue is whether AT&T is illegally withholding a large portion of the USF contributions it is required to make based on its assessable revenues, thereby burdening AT&T's competitors and their customers with some of AT&T's own costs.

¹ AT&T incorrectly asserts that WilTel does not contribute to the USF because it is a wholesale carrier. In fact, WilTel contributes (and since its inception has contributed) a substantial amount to federal and state USF mechanisms based on its revenues from the provision of services to end user and other customers.

In another attempt to obfuscate, AT&T suggests that its prepaid service is different from the prepaid and other services offered by WilTel and/or its customers because it is "akin to Lifeline service." This argument is disingenuous and self-serving. AT&T is competing directly with many other companies that also offer low-cost prepaid services to these same types of customers, albeit without avoiding required USF payments. The FCC does not need to condone unilateral, illegal behavior of one company to ensure provision of reduced-price services to lower income users of prepaid cards.

WilTel agrees with AT&T that similarly situated companies and services should be treated equally. But that means that the Commission must enforce its USF rules on a consistent and timely basis. For example, the time is past due for action on AT&T's pending Petition for Declaratory Ruling. If the Commission accepts AT&T's legal theory that its prepaid calling card service is "enhanced," then other companies who route prepaid (and other voice) traffic through a platform in the same way also are entitled to stop paying USF and to seek refunds. This decision would significantly impact USF contribution factor calculations going forward, but would comply with the Telecom Act's mandate that USF revenues be collected on a non-discriminatory basis. However, if the Commission rejects AT&T's legal theory, then the fourth quarter contribution factor is wrong because AT&T and others under-reported their assessable revenues. Failure to enforce the law against a delinquent company is itself serious discrimination in violation of Section 254.

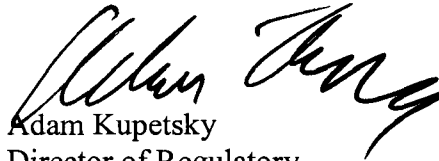
AT&T also attempts to excuse its conduct by pointing to the need for reform of universal service and intercarrier compensation. WilTel agrees that action in these areas is needed. However, it is equally as important that the Commission apply and enforce its rules on a nondiscriminatory basis under the existing mechanisms pending any eventual change. In the highly competitive IXC market, disparate enforcement of regulations against similarly situated competitors tilts the playing field. Bald attempts by AT&T and others to exempt their particular services from USF contribution regulations without serious justification are nothing more than unilateral grabs for special treatment and a regulatory upper hand in their competition with similarly situated companies.

WilTel does agree with AT&T on one important point. The Commission must enforce its rules equally regardless of whether a company provides a service end-to-end over its own network, or instead uses multiple underlying service providers. The Commission cannot permit a "pass-the-buck" situation in which use of two or more interconnected services, rather than a single network, creates a free pass for USF and access. When a voice call (including a prepaid voice call) is made, access and USF contribution obligations should not turn on this false distinction.

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One electronic copy of this Notice is being submitted to the Secretary of the FCC
in accordance with Section 1.1206 of the Commission's rules.

Sincerely,



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